



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
Washington, D.C. 20230

OFFICE OF THE ADMINISTRATOR

March 28, 1985

TO: DOC/GC - Lisa Lindeman

FROM: NOAA/GCOS - *Joan Bondareff*  
Joan Bondareff

SUBJECT: H.R. 25, the "Abandoned Shipwreck Act of 1985"

I concur in State's proposed report on H.R. 25 suggesting that the assertion of title over abandoned shipwrecks, particularly off the coasts of Texas, Florida and Puerto Rico, needs to be clarified and that probably the best way to do it is through an assertion of U.S. jurisdiction over such vessels, rather than title.

cc: NOAA/CA - P. Link  
GC/L - H. Feehan





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NATIONAL OCEAN SERVICE  
Washington, D.C. 20230

N/PS:HKS

MAR 28 1985

TO: Distribution

FROM: N/PS - Donald P. Martineau *[Signature]*

SUBJECT: Attached Congressional Action Item

Department of State Comments on H.R. 25, Abandoned Shipwreck Act

The NOAA Office of Congressional Affairs has asked NOS to respond to the attached action item. The Planning Staff is coordinating this review and the NOS response for the Assistant Administrator. Please contact Harriet Knight of the Planning Staff if there are questions. Comments due by COB April 3, 1985.

Attachment

Distribution:

N/CG - Bossler  
N/ORM - Tweedt  
GCOS - Bondareff

*Di -*  
*Send copy of my comments on this report to Harriet Knight N/PS.*

*Ref: 504-0399 HR 25*  
*3/29 JB*





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*Send copy of my comments on this report to Harriet Knight N/PS.*

*Refile w/ 504-03.99 HR25*  
*3/29 JB*





NR. 25  
GENERAL COUNSEL OF THE  
DEPARTMENT OF COMMERCE  
Washington, D.C. 20230

Date: March 25, 1985

Reply to  
Attn of:

Subject: Departmental views on State's proposed report on H.R. 25, the "Abandoned Shipwreck Act of 1985"

To: SEE DISTRIBUTION:

We have been requested by the Office of Management and Budget

to submit the views of this Department on the above indicated matter.

To assist us in preparing a report for submission to the Office of Management and Budget, you are requested to give this office your comments on or before

April 5, 1985

Please inform this office promptly (ext. 4264) if you feel there should be a modification in this assignment or if you require additional information or other assistance for the preparation of your comments.

PLEASE PHONE OR SEND WRITTEN COMMENTS TO: L. Lindeman  
377-4264  
Rm. 5876

✓ Action: CAN (NOS)

Assistant General Counsel  
for Legislation

✓ Copy for comment to:  
NOAA(P. Link)  
OGC/NOAA(H. Feehan)

Information copy to:  
Congressional Affairs (T. Shoemaker)  
Inspector General

Received MPS 3/27/85

L. LINDEMAN



United States Department of State

Washington, D.C. 20520

Dear Mr. Chairman:

Pursuant to your request of January 14, 1985, I am pleased to provide the Department's views on H.R. 25, entitled the "Abandoned Shipwreck Act of 1985." The purpose of the legislation is to provide for the orderly management of abandoned shipwrecks located beneath U.S. navigable waters. This Department has, apart from the comments below, no objections to the legislation.

As drafted, H.R. 25 would assert U.S. title to any abandoned shipwreck located in or on "submerged lands." For Guam, American Samoa, the Virgin Islands and the Northern Marianas, the term is specifically defined in the statute (sec. 3(4)(c)). For Puerto Rico and for the rest of the United States, definitions are incorporated by reference: 48 U.S.C. 749 and 33 U.S.C. 1301, respectively. There seems, however, to be a difficulty with the definitions incorporated, at least with respect to Texas, Florida and Puerto Rico, because each of those jurisdictions has rights in submerged lands out to a distance of three marine leagues (nine nautical miles).

Notwithstanding these special rights of Texas, Florida and Puerto Rico, the United States claims only a three-nautical-mile territorial sea. The United States asserts no sovereignty seaward of that three-mile limit, even off the coasts of those jurisdictions. H.R. 25 would, however, assert U.S. title to abandoned shipwrecks more than three nautical miles off the Texas, Florida and Puerto Rico coasts, and title could only derive from sovereignty. This assertion cannot be supported in international law. To be sure, the areas in question fall within the U.S. exclusive economic zone (EEZ) and are part of the U.S. continental shelf. A country's sovereign rights in its EEZ and on its shelf do not, however, extend to ownership rights of objects that are not natural resources, and shipwrecks clearly are not natural resources.

The Honorable  
Walter B. Jones, Chairman,  
Committee on Merchant Marine and Fisheries,  
House of Representatives.

There appear to be two ways to address this problem. One is to limit assertion of U.S. title to shipwrecks beneath "navigable waters," incorporating by reference the definition of that term in 33 U.S.C. 1362(7). Use of that definition will ensure that there is no assertion of ownership rights beyond the territorial sea.

An alternative approach would be for the bill to assert United States jurisdiction over, rather than title to, abandoned shipwrecks on submerged lands as defined in the bill. Under Article 303 of the 1982 United Nations Convention on the Law of the Sea (which the United States considers reflective of customary international law in matters relating to traditional uses of the oceans), a coastal State may exercise jurisdiction with respect to "objects of an archaeological and historical nature" found on the seabed within its contiguous zone. Since the contiguous zone of the United States extends out to 12 nautical miles, application of the bill to submerged lands nine nautical miles off the coast, even though seaward of the territorial sea limit, would be consistent with international law.

A second matter involves vessels that, at the time of their sinking, were governmental vessels engaged in non-commercial service (generally, but not always, warships). This Department appreciates the careful manner in which H.R. 25 limits U.S. assertion of title to shipwrecks that are abandoned. As you know, the U.S. only abandons its sovereignty over, and title to, sunken U.S. warships by affirmative act; mere passage of time or lack of positive assertions of right are insufficient to establish such abandonment. This fact has two implications for the application of H.R. 25. First, we understand that the same presumption against abandonment will be accorded vessels within the U.S. territorial sea that, at the time of their sinking, were on the non-commercial service of another State. Second, H.R. 25 does not apply to U.S. warships sunk within the territorial sea, unless they have been affirmatively abandoned by the U.S. Government.

We noted two typographical errors in the bill: in sec. 5(b) (line 12, page 4), the word "or" appears superfluous; in sec. 6 (line 21, page 4), the citation should probably be "16 U.S.C. 470i."

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

J. Edward Fox  
Acting Assistant Secretary  
Legislative and Intergovernmental Affairs